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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,813	02/03/2004	Jong Hyeok Lee	1630-0455PUS1	9550
2292 7590 12/01/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER DINH, TAN X	
			ART UNIT 2627	PAPER NUMBER
			NOTIFICATION DATE 12/01/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary**Application No.**

10/769,813

Applicant(s)

LEE, JONG HYEOK

Examiner

TAN X. DINH

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 16, 17 is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

1) The amendment/preliminary amendment filed 8/07/2008 is acknowledged. New claims 14-17 have been added.

2) The I.D.S filed 7/09/2008 has been considered by the Examiner. However, the foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

4) (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5) Claims 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by CHOI et al (US 2004/0218497).

CHOI et al discloses a method for determining the type of an optical disk that is loaded into an optical disk device, as claimed in claim 14, comprising:

loading the optical disk into the optical disk device (Fig.4, start);

determining initially a type of the loaded optical disk (Fig.4, 401);

activating a focusing servo based on the initial determination result (Fig.4, 402);

detecting a level of a wobble extraction signal while the focusing servo is activated and a tracking servo is turned off (Fig.4, 403);

determining finally the type of the loaded optical disk based on the detected wobble extraction signal level (Fig.4, 404, 405 and 406); and

performing a tracking servo adjustment operation according to the finally determined type of the loaded optical disk (Fig.4, step 407).

Claim 15 is rejected with the same reasons set forth in claim 14 above.

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to

which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7) Claims *14 and 15* are rejected under 35 U.S.C. 103(a) as being unpatentable over TAWARAGI (US 2004/0130991).

TAWARAGI discloses a method for determining the type of an optical disk that is loaded into an optical disk device, as claimed in claim 14, comprises loading the optical disk into the optical disk device (Fig.1, loading optical disc DK), determining initially a type of the loaded optical disk (paragraph [0078]), activating a focusing servo based on the initial determination result (paragraph [0078]), detecting a level of a wobble extraction signal while the focusing servo is activated and a tracking servo is turned off (paragraph [0078]), determining finally the type of the loaded optical disk based on the detected wobble extraction signal level (paragraph [0078]), *except to specifically show the step of performing a tracking servo adjustment operation according to the finally determined type of the loaded optical disk. However, the optical disk detecting system of TAWARAGI capable of detecting between CD-ROM, DVD-ROM, CD-R/RW or DVD-R/RW in order to perform recording or reproducing operations on these types, obviously, the tracking servo must be adjusted depend on the type of the optical recording medium as claimed.*

Claims 15 are rejected with the same reasons set forth in claim 14 above.

8) Claims *14 and 15* are further rejected under 35 U.S.C. 103(a) as being unpatentable over MAEGAWA et al (6,859,425).

MAEGAWA et al discloses a method for determining the type of an optical disk that is loaded into an optical disk device, as claimed in claim 14, comprises loading the optical disk into the optical disk device (Fig.2, loading optical disc 15), determining initially a type of the loaded optical disk (see column 32, lines 5-40), activating a focusing servo based on the initial determination result (column 32, lines 5-40), detecting a level of a wobble extraction signal while the focusing servo is activated and a tracking servo is turned off (column 32, lines 5-40), determining finally the type of the loaded optical disk based on the detected wobble extraction signal level (see column 32, lines 5-40), *except to specifically show the step of performing a tracking servo adjustment operation according to the finally determined type of the loaded optical disk.* However, the optical disk detecting system of TAWARAGI capable of detecting between CD-ROM, DVD-ROM, CD-R/RW or DVD-R/RW in order to perform recording or reproducing operations on these types, obviously, the tracking servo must be adjusted depend on the type of the optical recording

medium as claimed.

Claims 15 are rejected with the same reasons set forth in claim 14 above.

9) Claims *1-11,16 and 17* are allowed.

10) Applicant's arguments with respect to claims *1-11,16 and 17* have been considered but are moot in view of the new ground(s) of rejection.

11) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to **TAN Xuan DINH** whose telephone number is **(571)272-7586**. The examiner can normally be reached on **MONDAY to FRIDAY** from **9:00AM** to **5:00PM**.

The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the **Patent Application Information Retrieval (PAIR)** system. Status information for published applications may be obtained from either **Private PAIR** or **Public PAIR**. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197** (toll-free). If you would like assistance from USPTO customer Service Representative or access to the automated information system, call **800-786-9191** (in USA or Canada) or **571-272-1000**.

/TAN Xuan DINH/
Primary Examiner, Art Unit 2627
November 21, 2008